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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,530	06/18/2001	Gary Markofer	1574	2400

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/883,530

Applicant(s)

MARKOFER, GARY

Examiner

Hanh V. Tran

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3,4,12-14,16,20,23,26,29,33,35,37 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-4, 12-14, 16, 20, 23, 26, 29, 33, 35, 37, 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 6/2/2004.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-4, 12-13, 16, 20, 23, 29, 33, 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16, line 2, claim 23, line 2, claim 29, line 2, the recitation of "said work surface" is indefinite for failing to clearly define which work surface applicant is referring to, i.e., the corner work surface or the adjacent furniture work surface. Claim 20, line 1, "at least one inset rear" should be "said at least one inset rear". Claim 33, the limitations of "the underside of the work surface has a control switch... and plug thereon" is indefinite for having the same limitations as recited in claim 14. Claim 35, the limitations of "the underside of said corner section's work surface has a control switch" is indefinite having the same limitations as recited in claim 29.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3637

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 3, 12-14, 16, 20, 26, 29, 33, 35, 37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,536,078 to Novikoff in view of USP 5,598,790 to Fich, USP 5,823,487 to Kirchhoff et al, USP 5,769,514 to Brown et al, and USP 5,694,862 to Grubb.

Novikoff discloses a modular computer desk comprising a corner section, such as shown in Fig 20, comprising all the elements recited in the above listed claims including a pentagonal work surface, a pedestal mounted to the underside of the work surface, the front edge of the work surface being at a right angle to the elevation of the work surface, a return attached thereto on both sides of the corner section, a shelf supported on a pedestal, adjacent furniture components being abutted to and connected to the corner section on both sides of the corner section, the adjacent furniture components having a pair of returns each having a back panel thereon, the work surface is wood, at least one of the adjacent furniture components including a rear wall 178, such as shown in Fig 19, disposed beneath the rear edge of the work surface, inset from the rear edge of the work surface to permit wiring to be hiddenly disposed behind the inset rear wall 178. The differences being that Novikoff does not disclose a keyboard platform mounted underneath the front edge of the corner section which indefinitely adjusts up and down and tilts to a negative or positive position and sized in one dimension at about 27 inches to receive both a

Art Unit: 3637

keyboard and an adjacent mouse pad, a control switch electrically connected to a surge protector unit having a plurality of electrical outlets therein, an aperture through the work surface to permit a plurality of computer component line cords to pass therethrough, wire management means, the work surface is covered with high pressure laminate, adjacent furniture components each having an oblique edge at a 45 degree angle to its front edge, the component when in position abutting the corner section having its oblique edge intersecting the front edge of the corner section at 90 degree angle, the inset rear wall including a wire grommet therein.

Fich discloses a computer corner desk, such as shown in Figs 6-7, having keyboard platform mounted thereto in order to support a computer keyboard. Kirchhoff et al discloses a keyboard support assembly comprising a keyboard platform, such as shown in Figs 9 & 14, mounted beneath the front edge of a desk, which platform indefinitely adjusts up and down and tilts to a negative or positive position and sized in one dimension at about 27 inches to receive both a keyboard and an adjacent mouse pad in order to provide an ergonomic keyboard platform.

Brown et al discloses a computer desk comprising a work surface 10, such as shown in Fig 2, having a keyboard platform 20 mounted underneath the front edge of the corner section, a control switch electrically connected to a surge protector unit 38 having a plurality of electrical outlets therein, an aperture through the work surface to permit a plurality of computer component line cords to pass therethrough, wire management means 40; wherein the structure of the keyboard platform, the control switch, a surge protector unit with a plurality of electrical outlets, an aperture through the work surface, and wire management means provides a user friendly computer desk.

Art Unit: 3637

Grubb teaches the idea of a computer desk system comprising an adjacent furniture component 18 having a front edge parallel to a back edge, a side edge normal to the front and rear edges, an oblique edge at a 45 degree angle to the front edge thereof in order to provide a versatile adjacent furniture component.

Therefore, it would have been obvious to modify the structure Novikoff by providing a keyboard platform mounted underneath the front edge of the corner section in order to support a computer keyboard, as taught by Fich, with the platform indefinitely adjusts up and down and tilts to a negative or positive position and sized in one dimension at about 27 inches to receive both a keyboard and an adjacent mouse pad in order to provide an ergonomic keyboard platform, as taught by Kirchhoff et al, a control switch electrically connected to a surge protector unit having a plurality of electrical outlets therein, an aperture through the work surface to permit a plurality of computer component line cords to pass therethrough, wire management means in order to provide a user friendly computer desk, as taught by Brown et al, and each said furniture component with an oblique edge at a 45 degree angle to its front edge in order to provide a versatile adjacent furniture component, the component when positioning at certain orientation in abutting the corner section would have its oblique edge intersecting the front edge of the corner section at 90 degree angle, as taught by Grubb, since the references teach alternate conventional computer desk structure, used for the same intended purpose, thereby providing structure as claimed. With regard to the work surface being covered with high pressure laminate, it would have been obvious and well within the level of one skill in the art to cover the work surface with high pressure laminate in order to ease cleaning of the surface. With regard to the side edges range in extension from 14 to 16 inches, it would have been an obvious matter of design choice

Art Unit: 3637

and well within the level of one skill in the art at the time the invention was made to have the dimension of the side edges at such range in order to fit adjacent furniture components. In regard to the inset rear wall including a wire grommet, since it is well known in the art to provide wire grommet to a rear wall of a computer desk for insertion of electrical wires therethrough, it would have been obvious and well within the level of one skill in the art to provide the inset rear wall of Novikoff with a wire grommet therein for insertion of electrical wires therethrough.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Novikoff, as modified, as applied to claim 3 above, and further in view of USP 5,130,494 to Simonton et al.

Novikoff, as modified, discloses all the elements as discussed above except for the wire management being two J-shaped channels each mounted at a 90 degrees angle to each other disposed on the underside of the worksurface.

Simonton et al teaches the idea of a modular computer desk system having a wire management system, wherein the wire management system comprises at least two J-shaped channels, such as shown in Fig 28, each mounted at a 90 degrees angle to each other disposed on the underside of the worksurface adapted to receive wiring in order to a system for efficiently managing electrical and communications utilities associated with the work surface. Therefore, it would have been obvious to modify the wire management system of Novikoff, as modified, by providing at least two J-shaped channels, each mounted at a 90 degrees angle to each other disposed on the underside of the worksurface adapted to receive wiring in order to a system for efficiently managing electrical and communications utilities associated with the work surface, as taught by Simonton et al, since both teach alternate conventional modular computer desk system structure, used for the same intended purpose, thereby providing structure as claimed.

Art Unit: 3637

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Novikoff, as modified, as applied to claim 14 above, and further in view of USP 4,345,803 to Heck.

Novikoff, as modified, discloses all the elements as discussed above except for a shelf disposed beneath the corner work surface.

Heck teaches the idea of providing a corner work surface with a shelf 40 disposed beneath the corner work surface, such as shown in Fig 1, in order to provide an additional article support surface. Therefore, it would have been obvious to modify the structure of Novikoff, as modified, by providing a shelf disposed beneath the corner work surface in order to provide an additional article support surface, as taught by Heck, since both teach alternate conventional work station structure, used for the same intended purpose, thereby providing structure as claimed.

#### ***Response to Arguments***

9. Applicant's arguments filed 6/2/2004 have been fully considered but they are not persuasive.

10. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).



Art Unit: 3637

11. In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

12. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3637

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT *HVT*  
September 3, 2004

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